

REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner rejects claims 1, 2, and 7-9 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,689,051 to Nakada et al., (hereinafter “Nakada”). Furthermore, the Examiner rejects claims 3-6 under 35 U.S.C. § 103(a) as being unpatentable over Nakada in view of U.S. Patent No. 6,527,753 to Sekine et al., (hereinafter “Sekine”).

In response, Applicants respectfully traverse the Examiner’s rejections under 35 U.S.C. § 103(a) for at least the reasons set forth below. However, independent claims 1, 3, 5, and 7-9 have been amended to clarify their distinguishing features.

Independent claims 1, 3, 5 and 7-9 recite a cap which is used with an endoscopic treatment instrument and includes an engagement portion which removably engages the distal end of the first treatment instrument at a first fixing position, and an abutting portion (or a second engagement portion) which introduces the distal end of the second treatment instrument to a second fixing position (or which fixes a loop portion at a second fixing position, in the case of a second engagement portion), which is located nearer to the proximal end of a cylindrical body than the first fixing portion.

Independent claims 1, 3, 5 and 7-9 have been amended to clarify such features. The amendment to claims 1, 3, 5 and 7-9 are fully supported in the original disclosure. Thus, no new matter has been entered into the disclosure by way of the present amendment to independent claims 1, 3, 5 and 7-9.

Turning now to the prior art, Nakada discloses the use of a plurality of treatment instruments. However, Nakada fails to teach or suggest the distinctive features

recited in independent claims 1, 3, 5 and 7-9, such as the engagement portion which fixes loop portions of each of the treatment instruments at predetermined positions, an abutting portion which guides them to predetermined fixing positions, and the positional relationship between the loop portions of the first treatment instrument and the second treatment instrument that are fixed.

Sekine discloses introducing a plurality of treatment instruments from a plurality of tube passages. However, Sekine fails to teach or suggest the engagement portion and the abutting portion as recited in independent claims 1, 3, 5 and 7-9. Sekine further fails to teach or suggest the fixing position of the loop portions of each treatment instrument as recited in independent claims 1, 3, 5 and 7-9.

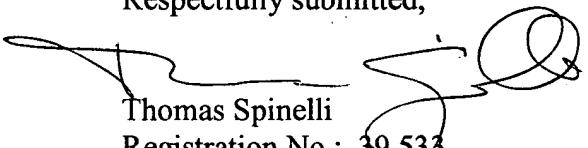
With regard to the rejection of claims 1, 2 and 7-9 under 35 U.S.C. § 103(a), independent claims 1 and 7-9, as amended, are not rendered obvious by the cited reference because the Nakada patent, whether taken alone or in combination with the knowledge of those of ordinary skill in the art, fails to teach or suggest an endoscopic mucous membrane resection instrument or method having the features discussed above. Accordingly, claims 1 and 7-9, as amended, patentably distinguish over the prior art and are allowable. Claim 2 being dependent upon claim 1 is thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1, 2 and 7-9 under 35 U.S.C. § 103(a).

With regard to the rejection of claims 3-6 under 35 U.S.C. § 103(a), independent claims 3 and 5, as amended, are not rendered obvious by the cited references because neither the Nakada patent nor the Sekine patent, whether taken alone or in combination, teach or suggest an endoscopic mucous membrane resection instrument having

the features discussed above. Accordingly, claims 3 and 5, as amended, patentably distinguish over the prior art and are allowable. Claims 4 and 6, being dependent upon claims 3 and 5, are thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 3-6 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,


Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS:dg/cm